

October 19, 2009 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, October 19, 2009 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) litigation (East Main Road – Plat 118, Lot 31) .

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 6:01P.M. and reconvene in executive session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting in open session at 6:55 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

Council took a recess until 7:00 P.M.

CONSENT CALENDAR

Vice Chairman Cambra requested that items # 13, #14 and #15 be heard under the Town Council portion of the docket.

1. Approval of Minutes – Regular Meeting, October 5, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

2. Communication of Town Administrator, with enclosures, re: Tax Collector's Report for period ending September 30, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and report.

3. Communication of Tax Collector, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

4. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

5. Notice of Public Hearing received from the Zoning Board of Review, Petition of Wendy Cotta and Catherine Cotta (owners), Catherine Cotta (applicant) for an Extension under Article 9; Section

905-requesting a one year extension of previously granted Variance dated, January 12, 2009 on real estate located at Fayal Lane, TAP 124, Lot 26.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said notice.

6. Memorandum of Frederick C. Williamson, Chairman, State Historic Preservation Officer, re: National Register of Historic Places listing – Stonybrook Estate Historic District has been placed in the National Register of Historic Places.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

7. Memorandum of Town Clerk, Town of Hopkinton, with enclosure, re: Resolution in opposition Binding Arbitration Legislation for Teacher's Contracts.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

8. Resolution of the Exeter-West Greenwich School Committee, re: In opposition to Binding Arbitration Legislation for Teachers' Contracts.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said resolution.

9. Resolution of the East Greenwich School Committee, re: In opposition to Binding Arbitration Legislation for Teachers' Contracts.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said resolution.

10. Memorandum of Town Clerk, Town of Glocester, with enclosure, re: Resolution in opposition to Governor Carcieri's plan to cut an additional \$68.7 million dollars from budget impacting Cities and Towns.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

11. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses for the 2009-2010 licensing year. (See attached list)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.

**12. Communication of June L. Randall, GMIS International President,
re: Appreciation of Assistance with GMIS Conference.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted
unanimously to receive said communication.**

**13. Petition of National Grid Electric Company for Green End Avenue
proposed new JO Pole location. (Recommendation of Roads/Utilities
Committee included)**

**Councillor Santos requests the Town Administrator to contact
National Grid asking them to amend their application to include the
height of the poles being installed or replaced.**

Councillor Bozyan noted support of Councillor Santos request.

Councillor Silveira expressed concern with the request however; noted that the Town Administrator should send a formal communication to National Grid for the request.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive and approve said petition as well as request the Town Administrator to send a formal communication to National Grid requesting them to add pole height, to the application, for poles being relocated or replaced.

14. Petition of National Grid Electric Company for Mitchell's Lane proposed new JO Pole location. (Recommendation of Roads/Utilities Committee included)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive and approve said petition as well as request the Town Administrator to send a formal communication to National Grid requesting them to add pole height, to the application, for poles being relocated or replaced.

15. Petition of National Grid Electric Company for Bliss Mine Road proposed new JO Pole location. (Recommendation of Roads/Utilities Committee included)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive and approve said petition as well as request the Town Administrator to send a formal communication to National Grid requesting them to add pole height, to the application, for poles being relocated or replaced.

TOWN COUNCIL

1. Application of Ocean State Job Lot Stores of RI, Inc. dba Ocean State Job Lot #114, 288 East Main Road, for a Mechanical Amusement Device License for the 2009-2010 licensing year. (NEW) (Three Games)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.

2. Public Hearing (Advertised)

Application of Florence A. Cyr dba Dawg House Grill/Deli, 687 West Main Road, for Victualling House License – Additional Hours of Operation – for the 2009-2010 licensing year. (NEW)

Applicant withdrew license request.

3. Public Hearing (Advertised)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 101, Tents.

Public Hearing was declared open.

Acting Town Administrator Ronald Wolanski reviewed in summary, the proposed regulations requirements entered here:

Councillor Santos questioned if a non-profit organization is exempt from the Tent ordinance fees.

Town Solicitor Michael W. Miller noted that no entity will be exempt from fees within the ordinance.

Councillor Santos questioned residents erecting a 12x12 canopy or large camping tent in their backyards.

Building Official Jack Kane Building, responding to Councillor Santos explained that within the building code is a section addressing a

fabric structure which allows flexibility for large tents however; if the tent is over 120 square feet a permit is required. A 12x12 canopy is exempt under the state building code because it is a portable shade structure.

Bill Corcoran, President Newport Tent Company, noted that he was involved in the initial stages of the Tent ordinance. Mr. Corcoran is concerned and requests the removal of the requirement for approval of the police department in sections throughout the ordinance. He also requests to remove, within section 101.04F, “non-residential property must comply with the setback requirements applicable to accessory building”.

Town Solicitor Michael Miller read RIGL 23-28.19-1 noting that the State Law requires approvals from all departments and does not recommend modification be made to that provision.

Art Benner, 3 Namquid Drive, expressed concern that a fee schedule for this ordinance is not attached and how the ordinance will affect the farmers market.

Councillor Bozyan noted in order to modify this ordinance; State Law would have to be amended.

Building Official Jack Kane, responding to Mr. Benner noted that the farmers market would be addressed under the building code – fabric structures.

Fire Marshal Tom Karpovitz addressed the Council noting his concern with the definition of a tent within the ordinance. Mr. Karpovitz will investigate a proposed amendment to the 120 ft rule, within the State Law, requiring a license from the building official for a tent.

Public Hearing remains open

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

4. Public Hearing (Advertised)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 25A – Wind Energy Conversion Facilities.

Council President Semonelli expressed concern with the passage of the Wind Turbine ordinance noting that there are certain areas in Town which should not be allowed to erect wind turbines. Mr. Semonelli also expressed concern of the Town's appearance if too many wind turbines are erected. He suggests the ordinance to be returned to the Planning Board for further review and a list of areas where wind turbines will be permitted.

Councillor Santos, Councillor Vonvillas and Councillor Silveira noted

support to have the public hearing on this ordinance.

Vice Chairman Cambra noted that the ordinance does not allow a wind turbine to be placed in all areas within the Town and requests to move forward with the public hearing on the ordinance.

Public Hearing was declared open.

Acting Town Administrator Ronald Wolanski addressed the Council reviewing in summary, the proposed ordinance amendment, entitled Wind Turbines provides for the following:

Art Weber, 145 Island Drive, Chairman Planning Board, noted that the document is a result of years of work, subcommittees, legal advice and wind review. Currently, there is a moratorium on wind turbines. Mr. Weber requests that if the ordinance is referred back to the Planning Board, specific guidance be given to the board for amendments to this ordinance.

Building Official Jack Kane addressed the Council noting that the ordinance provides enough safeguards to build a wind turbine.

Anthony Spiratos, 333 Tuckerman Avenue, expressed concerned with staying on the right path of historic preservation within the Town, while investigating green energy. Mr. Spiratos is also concern with the height allowance of a wind turbine. He also noted that the swishing of wind turbine blades have an adverse effect on people.

John Bagwill, 587 Tuckerman Avenue, address the Council reviewing item #5, a letter submitted by Sara Gill entered here:

Peter Tarpgaard, 5 Longmeadow Avenue, Member of Wind Turbine Feasibility Committee, noted that the committee has been investigating large turbines which have shown savings of millions of dollars in energy costs. Mr. Tarpgaard explained how constructing wind turbines may reduce the tax burden on citizens.

Jocelyn Sherman, 83 Indian Avenue noted her opposition to the wind turbine ordinance expressing concern with safety and appearance of wind turbines. She feels that there are many loop holes within this ordinance.

Ann Burns, 171 Tuckerman Avenue, explained that the wind turbine ordinance positively addresses alternate energy however, agrees that the ordinance should be returned to the Planning Board for further review.

Joseph Burke, Board of Directors, RI Lights of Clean Energy, researches wind turbine technology, noted that most turbines are not offensive and expressed the need to look at current technology.

Councillor Bozyan noted that wind turbines are safe. The cost to insure the large wind turbine in Portsmouth for a 5 million dollar policy is \$6,500. a year.

Public Hearing was declared closed.

Councillor VonVillas and Councillor Silveira expressed concern with not moving forward with this ordinance.

Councillor Sylvia noted that the ordinance should have a deeper review.

Councillor Bozyan noted that there is a responsibility to get this ordinance near perfect.

On motion of Council President Semonelli, duly seconded, it was voted to return the Wind Turbine Ordinance to the Planning Board to identify areas within the Town where wind turbines should and should not be placed; Council President Semonelli, Councillor

Bozyan, Councillor Santos and Councillor Sylvia voted YES; Vice Chairman Cambra, Councillor Silveira and Councillor VonVillas voted NO to said motion.

5. Communication of Sara Gill, President, Easton's Point Association, with enclosures, re: Proposed Ordinance Regarding Wind Turbines.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

6. (Continued from Regular Meeting, September 8, 2009)

Memorandum of Town Administrator, with enclosures, re: Listing of State Mandates from the RI Department of Revenue/RI Department of Education.

On motion of Councillor Silveira, duly seconded, it was voted

unanimously to receive said memorandum and resubmit this matter at a later date.

7. Resolution of the Council, re: Serving on Town Committees – Middletown elector not to serve on more than two (2) Boards or Committees.

Councillor Sylvia requested the resolution be amended with the last paragraph becoming a “#1” correcting the word “supersede” and adding the word “and” at the end of the paragraph, also adding a second paragraph “#2” “That nothing contained herein is intended to apply to Town Councillors that, due to their elected office, are required to serve on numerous boards and committees or any ex officio appointee”.

On motion of Vice Chairman Cambra, duly seconded, it was voted to pass said resolution, as amended, Councillor Santos voted NO to said motion.

8. Communication of Heather Taylor, re: Resignation from the Middletown Substance Abuse Prevention Task Force.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to receive said communication and accept resignation with regret.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 8:30 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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